

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

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WEDNESDAY, THE TWENTYSEVENTH DAY OF JULY
TWO THOUSAND AND FIVE

P R E S E N T

THE HON'BLE SRI JUSTICE ELIPE DHARMA RAO

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WRIT PETITION No.16417 OF 2005

Between:

A. Mohan Reddy ... Petitioner

Versus

The Mandal Revenue Officer,

Thipparthi Mandal, Nalgonda district

& Anr. ... Respondents

Counsel for the Petitioner: Mr.P.VENKATESWARA RAO

Counsel for the Respondents: GOVT.PLEADER FOR REVENUE

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ORDER :

This writ petition is filed questioning the action of the respondents 1 and 2 in taking away the bore-well starter on 23-6-2005 at 06:00 a.m., on the ground that he has not obtained prior permission and contravening Section 35 of the Andhra Pradesh Water, Land and Trees Act and Rules 2002 and not allowing the petitioner for pumping the water from his bore-well situate in survey no.239 of A.Duppalapally village of Thipparthi Revenue Mandal, Nalgonda district, as arbitrary, illegal, unjust

and unreasonable and set aside the offence report dated 07-7-2005 of the first respondent and consequently direct the respondents 1 and 2 not to interfere with the operation of his bore-well.

The case of the petitioner is that he is the absolute owner and possessor of the land admeasuring Acs:5-05 guntas situate in survey no.239 of Anisetti Duppalapalli village of Thipparthy Revenue Mandal, Nalgonda district and as such, he is cultivating the same for a long time. In order to cultivate his land, he laid two borewells and fitted motor and obtained electricity connection and supplying water to the garden.

Originally the garden was planted long back, as one bore-well water is not sufficient to meet the necessity, therefore, he started another bore, which was already laid and SC.No.241 was assigned. Since the bore well is in operation for the last one decade and this fact will reflect from the electricity consumption charges bills.

While things stood thus, the neighbours have made a false complaint against him, alleging that the petitioner laid a bore well within 18 feet from the complainant's bore well and sought to stop digging of water from the old bore wells for their benefit. In view of the above, the first and second respondents have seized his electricity starter-box and service wire without any jurisdiction and till date the same were not returned.

Heard the learned counsel appearing for the petitioner, Mr.P.Venkateswara Rao as well as the learned Govt.Pleader for Revenue and Panchayat Raj and Rural Development.

After going through the material available on record, especially the seizure order passed by the second respondent under Form No.4, Rule-25, sub-rule (1) and Form No.6, Rule-25, sub-rule-3 i.e., certificate of safe custody, prima facie, this court is satisfied that before initiating action against the petitioner, neither the respondents have afforded any opportunity of hearing the petitioner nor they issued any notice by following due process of law. As seen from the record, the respondents have violated the principles of natural justice before contemplating seizure of bore-well starter-box etc. In the circumstances, the seizure order passed by the second respondent under Form No.4, Rule-25, sub-rule (1) is liable to be set aside and accordingly set at naught. It is strange to observe that the order impugned depict travesty of justice, more so, on the ground that the respondents have not afforded any opportunity of hearing the petitioner before seizing the bore-well electricity starter-box and service wire. The second respondent, who is the secretary of A.Duppalapally Gram Panchayat of Thipparthy Revenue Mandal, Nalgonda district, is directed to return the seized articles of the petitioner, as specified in Form No.6, Rule-25, sub-rule-3 i.e., certificate of safe custody issued by the second respondent, positively within one week from the date of receipt of a copy of this order, unconditionally without fail. However, this order does not preclude the respondents from contemplating any action in accordance with the established principles of law,

in case the petitioner has laid the bore well, without obtaining prior permission from the concerned authority, that too, after the enactment of the Andhra Pradesh Water, Land and Trees Act and Rules, 2002.

With the above direction, the writ petition is disposed of at the admission stage.

However, there shall be no order as to costs.

JULY 27th, 2005. -----

I s L. **ELIPE DHARMA RAO , J.**